

Notice of Allowability

Application No.

10/531,958

Applicant(s)

TOSHIMA ET AL.

Examiner

Tuyen Q. Tra

Art Unit

2873

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 10/03/2007.
2. ☒ The allowed claim(s) is/are 34-39,55,56 and 62.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date 0405
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☒ Interview Summary (PTO-413),
Paper No./Mail Date 1107.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

DETAILED ACTION

Examiner's Amendment

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.
2. Authorization for this examiner's amendment was given in a telephone interview with Joseph Keating on November 5, 2007.
3. The application's claims have been amended as follows:
 - Non-elected claims 31-33 are canceled.
 - Claim 34, line 30, "at the astigmatic axis angle determined" has been amended as --at the determined astigmatic axis angle--.
 - Claim 35, line 43, "at the astigmatic axis angle determined" has been amended as --at the determined astigmatic axis angle--.
 - Claim 62, line 39, "at the astigmatic axis angle determined" has been amended as --at the determined astigmatic axis angle--.

Reasons For Allowance

4. Claims 34-39, 55, 56 and 62 are allowed.
5. Following is an examiner's statement of reasons for allowance:

The instant application is deemed to be directed to a nonobvious improvement over the invention of Toshima et al. (U.S. 7,267,439 B2), Robin (U.S. 6,742,895 B2) or Hutchinson (U.S.

5,929,972 A), as being representative example in the art to which the instant invention pertains. In particular, the primary reason for allowance of the independent claim 34, 35 and 62, which provide a main object of the claimed inventions to provide an optometric apparatus and an optometric method for performing eye examinations, in which subjects or even those with astigmatism can readily make an eye examination using a computer screen without requiring a special piece of equipment. In particular, the claimed invention includes means for displaying a hyperopia and myopia determination chart having a red-based color background area and a blue-based color background area, in both of the areas black-based color straight lines are drawn in one of the two selected orthogonal orientations; means for prompting the subject to select the area which provides a clearer appearance of the straight lines to the subject in the displayed first hyperopia and myopia determination chart; means for determining hyperopia and myopia at the astigmatic axis angle determined and at an angle orthogonal thereto in accordance with a result selected in the first hyperopia and myopia determination chart and a result selected in the second hyperopia and myopia determination chart. Therefore, the claimed invention is considered to be in condition for allowance a being novel and nonobvious over the prior art.

The prior art taken either singly or in combination fails to anticipated or fairly suggest the claimed invention of an optometric apparatus for providing a function, and their related methods having the claimed structure, in such a maner that a rejection under 35 USC 102 or 103 would be proper. The claimed invention is therefore considered to be in condition for allowance as being novel and nonobvious over prior art.

6. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue

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fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tuyen Q. Tra whose telephone number is 571-272-2343. The examiner can normally be reached on 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ricky L. Mack can be reached on 571-272-2333. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

TT

December 4, 2007


RICKY MACK
SUPERVISORY PATENT EXAMINER